

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JOSEPH LOCHUCH EWALAN,

CASE NO. C20-5678JLR

Plaintiff,

## ORDER

V.

ROBERT SCHREIBER, et al.,

## Defendants.

On March 14, 2024, the court granted in part *pro se* Plaintiff Joseph Lochuch  
n’s motion to subpoena witnesses, setting forth an expedited process to facilitate  
uance and service of subpoenas to Mr. Ewalan’s trial witnesses. (*See generally*  
4 Order (Dkt. # 201); *see also* Mot. (Dkt. # 200).) Specifically, the court ordered  
walan to “prepare individual subpoenas directed at each witness that he intends to  
trial” using the blank form available on the court’s website. (3/14/24 Order at  
The court directed Mr. Ewalan to “carefully review and adhere to the requirements  
deral Rule of Civil Procedure] 45” and file his proposed subpoenas on the docket

1 by no later than March 20, 2024. (3/14/24 Order at 2-3.) The court advised that, “[u]pon  
 2 Mr. Ewalan’s timely filing of his subpoenas . . . the court [would] review the subpoenas  
 3 to ensure compliance with Rule 45,” and thereafter enter an order directing the Clerk to  
 4 issue the compliant subpoenas and directing the United States Marshals Service to serve  
 5 the compliant subpoenas. (*Id.* at 3.)

6 Now before the court are Mr. Ewalan’s proposed subpoenas, which he timely  
 7 filed, to the following witnesses: (1) Dr. Joseph T. Ho<sup>1</sup>; (2) Dr. Lara B. Strick;  
 8 (3) Defendant Russell Dickerson; and (4) Chad Anderson. (Prop. Subpoenas (Dkt.  
 9 # 206).) Upon careful review, the court has identified several problems that preclude it  
 10 from directing issuance and service of the subpoenas.

11 First, each of Mr. Ewalan’s proposed subpoenas fails to “state the court from  
 12 which it issued.” Fed. R. Civ. P. 45(a)(1)(A)(i). The subpoenas should identify the  
 13 issuing court as the “United States District Court for the Western District of  
 14 Washington.”

15 Second, each of Mr. Ewalan’s proposed subpoenas fails to identify “a specified  
 16 time and place” for the witness to attend and testify. Fed. R. Civ. P. 45(a)(1)(A)(iii).  
 17 Although it is Mr. Ewalan’s responsibility to schedule his witnesses and the court will not  
 18 designate the date and time of their testimony, the subpoenas should identify the place of  
 19

20 \_\_\_\_\_  
 21 <sup>1</sup> Throughout this litigation, Mr. Ewalan has identified this witness alternately as “Dr.  
 22 Joseph T. Oh” and “Dr. Joseph T. Ho.” (*Compare* Prop. Subpoenas, *with* 10/25/23 Mot. (Dkt.  
 # 168) at 1.) In their proposed pretrial order, Defendants identified this witness as “Dr. Joseph T.  
 Ho, MD” of Providence St. Peter Hospital. (Prop. Order (Dkt. # 188) at 4.) The court’s  
 independent research confirms that this witness is named Dr. Joseph T. Ho.

1 testimony as: United States District Courthouse, 700 Stewart Street, Seattle, Washington  
2 98101. The courtroom number is 14106.

3       Third, each of Mr. Ewalan's proposed subpoenas fails to "set out the text of Rule  
4 45(d) and (e)." Fed. R. Civ. P. 45(a)(1)(A)(iv). The form on the court's website is three  
5 pages long and contains the text required by Rule 45(a)(1)(A)(iv), but Mr. Ewalan's  
6 subpoenas are partial documents that contain only the first page and therefore lack the  
7 required text.

8       Fourth, Mr. Ewalan improperly seeks to subpoena Sgt. Dickerson, who has retired  
9 from the Washington Department of Corrections and currently resides in Pennsylvania.  
10 *See* Fed. R. Civ. P. 45(c)(1) (authorizing subpoenas commanding a person to attend a trial  
11 only "within 100 miles of where the person resides, is employed, or regularly transacts  
12 business in person" or, with respect to parties, "within the state where the person resides,  
13 is employed, or regularly transacts business in person"). The court previously warned  
14 Mr. Ewalan of Rule 45's limitations with specific respect to Sgt. Dickerson. (3/14/24  
15 Order at 3 n.1.) Mr. Ewalan is advised that the court will not order the issuance and  
16 service of a subpoena to Sgt. Dickerson at his Pennsylvania address, as doing so would  
17 violate the geographic limitations of Rule 45(c)(1)(A). *See* Fed. R. Civ. P. 45(c)(1)(A).

18       In light of the foregoing, the court ORDERS as follows:

19       1.       Based on Mr. Ewalan's *pro se, in forma pauperis*, and incarcerated status,  
20 the court finds good cause to extend the deadline for Mr. Ewalan to subpoena his  
21 witnesses. Fed. R. Civ. P. 16(b)(4). The court extends the deadline for Mr. Ewalan to  
22 issue and serve witness subpoenas to **April 1, 2024**. Mr. Ewalan is warned that the court

1 will not grant further extensions of this deadline given the rapidly approaching trial date  
2 of April 22, 2024.

3       2. The court grants Mr. Ewalan one more opportunity to properly prepare his  
4 subpoenas. Mr. Ewalan shall prepare individual subpoenas directed at each witness that  
5 he intends to call at trial, other than himself. *See* Fed. R. Civ. P. 45(a)(3) (providing that  
6 the party requesting the subpoena “must complete it before service”). The court again  
7 advises Mr. Ewalan to carefully review and adhere to the requirements of Rule 45, taking  
8 particular care to cure the issues identified in this order. Mr. Ewalan shall handwrite his  
9 subpoenas ***neatly*** and ***legibly*** using the blank form subpoena available on the court’s  
10 website. *See Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action*,  
11 United States Courts, <https://www.uscourts.gov/forms/notice-lawsuit-summons-subpoena/subpoena-appear-and-testifyhearing-or-trial-civil-action> (last visited March 21, 2024).

13       3. Mr. Ewalan shall file his proposed subpoenas on the docket by no later than  
14 **March 27, 2024.**

15       4. Upon Mr. Ewalan’s timely filing of his subpoenas pursuant to this order,  
16 the court will review the subpoenas to ensure compliance with Rule 45. If the court is  
17 satisfied that Mr. Ewalan’s proposed subpoenas meet the requirements of Rule 45, the  
18 court will enter an order (1) directing the Clerk to issue the compliant subpoenas, and  
19 (2) directing the United States Marshals Service to serve the compliant subpoenas by no  
20 later than April 1, 2024, and to bear the costs of any associated witness fees. *See*  
21 28 U.S.C. § 1915(d); Local Rules W.D. Wash. LCR 3(c)(3).

22 //

5. Nothing in this order shall be construed to prevent Defendants from seeking to quash or otherwise objecting to Mr. Ewalan's subpoenas on any usual basis permitted by law.

Dated this 22nd day of March, 2024.

  
\_\_\_\_\_  
JAMES L. ROBART  
United States District Judge